

**TOWN OF KITTERY
PLANNING BOARD MEETING**

Thursday, January 13, 2005

APPROVED
Council Chambers

Meeting called to order at: 6:19 p.m.

Present: Doug Muir (Doug), Ron Ledgett (Ron), Chairman Russell White (Chairman White), Scott Mangiafico (Scott), Janet Gagner (Janet), Megan Kline (Megan), Jerry Solich (Jerry)

Also present: Town Planner, Jim Noel (Planner Noel), Mark Eyerman, Earldean Wells

1. ROLL CALL

Roll call noted.

2. REVIEW/APPROVAL OF MINUTES

- *Housekeeping – review and approval of the minutes of 12/16/04. Some corrections were made, but further review and approval was deferred until the next meeting.*

Janet and Chairman White would like the minutes shortened for workshop minutes. The workshop period should be summarized.

Ron thinks that the public hearing should be verbatim.

3. DISCUSSION

There is a discussion on the progress and an extension of the moratorium. Currently, the moratorium goes until the end of February. We could have mixed use, lighting, design handbook, commercial, and local business done by the end of February, but not everything. The unfinished items will be all residential and other zones and issues. Neither Janet nor Jerry are in favor of extending the moratorium to the end of April. Janet thinks that we need to be reviewing projects.

- *Housekeeping – Ron suggests an extra meeting every month to pick up the pace. While the idea is met with approval, the schedule needs to be set. Also, Janet has suggested separating the meetings into separate categories, such that there is one meeting devoted to project review, and two devoted to ordinance reviews. Mark says that Wednesdays are difficult for him to do. Scott and the recorder are not available the first Thursday of each*

month, as the Port Authority meets then.

A. REVIEW MU & LIGHTING EDITS FROM TOWN COUNCIL

1. The use of shall, must, and may

Mark starts with lighting. One of the councilors has a question about the use of the directive terms shall, must, may. Mark put together a one-page memo with his thoughts. He thinks that we got a memo from legal counsel saying the same thing. Mark and Chairman White see “shall” and “must” as the same things. There is concern over the use of “may”. Doug says that “may” in the affirmative is permissive but in the negative is mandatory, so “shall not” and “must not” and “may not” mean the same thing. Ron thinks that we should choose a set of words and define them accordingly. He proposes “shall” and “should”. Although there is some discussion about getting rid of the words “may” and “should” in the code, Megan points out where they have been used appropriately to allow for the Planning Board to exercise discretion. Chairman White wants to follow the advice of the town attorney. There is agreement that “may not” will not be used. To resolve this issue, Ron Ledgett suggested that state statutory definitions of shall, must and may be followed and the Board agreed.

- *Housekeeping: Mark will revise lighting, taking into account the input from town counsel, continuing to use must and minimizing shall.*

2. Lighting Standards

- *Housekeeping: There was a proposal from Town Council in the margin to add a definition of lumen rating.*
- *Housekeeping: The term light spill was flagged and he suggests deleting that. Substitute “excessive illumination levels on adjoining properties” for “light spill”. On page 5 in the middle there under 16.32. 1240.*

Seasonal lighting will not be addressed, as doing so poses additional problems, such as deciding what holidays to cover, how to define seasonal lighting, how to ensure that the lights are taken down at the end of the season, etc.

- *Housekeeping: At Jerry’s request, Mark will add an exemption to allow people to light the American flag on flag poles, provided the light is concentrated and shielded, to prevent glare on the roadway.*

One of the Town Councilors was concerned that the draft ordinance seems excessive. Jerry says that enforceability is really in the planning and approval stage. Mark gives the example of the Hannaford Brothers kind of lighting that complies completely with the national standards, but provides too much light. New publications talk about the issue of overlighting, but they really don’t regulate it.

- *Housekeeping: Chairman White would like Mark to provide a memo to articulate that as part of the package to the Town Council.*

There is a consensus that the glare definitions are sufficient as is.

There is some discussion about height limits for masts and poles. The Board has sought to regulate the lighting fixtures mounted on masts and poles, but not the height of the masts and poles themselves, since that has never been a problem.

Mark says that one question that was raised is if you go to page 4, c, there is specific language that talks about the level of lighting for nonresidential at the boundary of a residential property. Then if you go to page 5 re: single and 2 family residence, then the standard is different. When the Planning Board discussed this previously, the rationale behind it was to make this not onerous to single family owners, but to make it so that if there really were a problem, with a horrific light, there was something that would give the CEO the ability to respond to a complaint. The Board is still of that sentiment. There is discussion about having a complaint trigger the process with respect to single family homes, rather than having the police regulate it on their own with a light meter. Chairman White does not see the need to use a lighting standard at a single family home unless there is a complaint filed, the CEO asks the owner to stop, and the owner refuses. Then the light measurement shall prevail.

- *Housekeeping: Janet says that this will have to be explained it to Town Council.*

3. MU

Town Council would like a definition of light industry. There already is one. On page 1, 16.12.130, the language was changed to limited residential. There was a comment asking about compatibility with b9b. Essentially, that's a pretty limited residential situation.

The issue remaining is whether limited residential includes housing for the elderly, etc.

Mark says there is a question on page 2 as to housing for the elderly as part of a mixed use project. If it is nonprofit and isn't going to pay taxes, we don't want to allow it. Chairman White says does not think we can zone out nonprofit housing for the elderly. Mark thinks there are real questions about whether you can distinguish between a use based on whether it's a not for profit or a for profit situation. Chairman White says that there is a mandate to provide affordable housing. Perhaps not for profit housing does that.

- *Housekeeping: Ask Town Attorney two questions:*
 1. *In the mixed use zone, if the ordinance is amended to allow housing for the elderly, can that be amended to for profit housing for the elderly?*
 2. *Could the density requirements for for profit and not for profit elderly housing be different?*

Mark says there was a comment that the existing designs, bottom of page 3,i, are too subjective. Chairman White does not see anything wrong with sheet metal roofs with the right design. The new fire station has them. Mark says that bright colors or hues are prohibited. If we want to do

something about it, we should do it. Chairman White feels it is sufficient to say “characteristic of Kittery.” Janet feels the photographs or a color chart can show what we don’t want. Ron feels that saying that colors must be muted makes “bold or bright hues” redundant. Ron and Chairman White would like to strike it out.

There is some discussion about whether residential housing bonuses. Currently, if you park within the building, you get a 50% bonus. If you do elderly housing, you also get a 50% bonus. Megan says that the problem for her is that people only have one interior parking space, but may have 3 cars.

Ron would like the elderly housing people to have a further incentive to put parking underneath. Chairman White says that we really want cluster developments and to put services with residences to somewhat address the sprawl issue. There is an agreement that the development should be connected to sewer as well.

Mark says the proposal on the table is to change the density requirement such that for dwelling units that are part of the mixed use, the density requirement shall be reduced from 20,000 sf to 15,000 sf if there is parking within the building, with the proviso that if the development is connected to sewer, and for the elderly, it is reduced from 15,000 sf to 10,000 sf.

Consensus of the Board in favor of this.

There was a discussion about campground occupancy. Mark says there is a question about occupancy of campground sites and limiting it to 96 hours. He thinks someone wrote it to prohibit the Wells kind of weekly facility. Chairman White says that some places have quite an encampment in the summer months. Jerry feels the proposed time limitation is too short. Chairman White would like it extended to 2 weeks. Ron says that some people are there for 2-3 weeks. Chairman White says there are a couple of campground sites that go below the radar. They sell for good money. The density that is allowed in campgrounds is the same as in a trailer park - the site is to be 1,200 sf minimum. Doug thinks that it is a good idea to outlaw campgrounds in the mixed use zone. As to hotels and motels in mixed use, Jerry says that should remain. White says that no more than 3 hotels or motels will be permitted for the zone. Mark says that this is the mixed use zone and one of the intents was not to allow one use to dominate.

- *Housekeeping: In the commercial greenhouse lighting language, page 9, Chairman White would like it added that internally lit greenhouses will be restricted.*

B. REVIEW COMMERCIAL ZONES

There is a discussion regarding making this more readable. Mark made some changes in red. He changed the reference so that it’s now C1, C2 and C3. He took out “where feasible” and “if feasible.” The other suggested change he made as well. Chairman White thinks it is ready to send up. Ron feels we are tailoring uses to minimize exceptions within a zone and would like to reference the Comprehensive Plan with respect to subdistricts C1, C2, and C3. Chairman White says we are tailoring uses within a zone and would like a short memo on this. Janet says that the first part of the purpose addresses this. No consensus is reached.

Mark asks the Board for feedback on lighting and the design standards. Planner Noel did not provide it to them. Chairman White suggests putting LB on the agenda for the additional meeting. Mark would like to go to public hearing with the whole package.

There is a discussion as to whether luminaries on page 2 of the design handbook should be “as classified by IESNA”. Our ordinance allows greater restriction than IESNA, which is generally geared toward safety.

Ron added on page 2: “There should be no direct line of site to the filament.” At the next paragraph, he also added “is shielded by internal louvers or refractors so that there shall be no direct line of site to the filament.” Megan and Janet like that. Doug feels that the filament should be shielded so that it is not visible from the side or at a distance. Basically, unless you are directly under the light, the filament should not be visible.

There is some discussion about adding the language we want from IESNA to our ordinance so that we only have to reference our ordinance, and not the IESNA as well. Chairman White finds that preferable. Mark has tried to do that. Chairman White feels it is sufficient to say “and the lighting ordinance and the more restrictive practice shall apply.”

Ron asks if we need to change luminaries to fixtures as defined.

There is no decision on whether a tall fixture is more or less restrictive.

Ron says on page 4, there is a may shall issue to be corrected.

The examples that are to represent what the lighting should be are good, but not quite right. There is a concern that they are too bright. White would like them to be like the lights at Hannaford illuminating their signs, which are fully shielded.

Ron says that under 5, second sentence, we should strike “in general” because it makes it vague.

Mark thinks he should take out the last two sentences there.

Megan says that is sign lighting and pointed down.

Ron thinks there is a potential ambiguity there. On page 10, the picture would be a lot better if the lights were turned on so that you could see what they are talking about.

Chairman White says that on page 8, the bottom right hand picture shows a frosted globe with an otherwise unshielded filament. There are a variety of those around. Chairman White would like to regulate the wattage on those. Scott would like to add: “provided it’s of low wattage.”

Chairman White would like to regulate the color of the light. He knows that some colors of light cut glare better, and we have talked about mist and fog. Doug thinks that a bluish light is unappealing, commercial. Chairman White likes commercial, yellowish lights. They are low pressure sodiums. Mark says the issue with them is that you wash out a significant percentage of the color spectrum.

On page 5 under luminaries, there is a statement that bright lights are recommended, but the Board does not know why.

- *Housekeeping: Doug says on page 10, he wants to know what we are talking about. The shoe box fixture which shows an acceptable light should be photo-shopped out. Mark will give it to Terry and will go through it and take another example. He asks the Board to let him know if they have positive examples.*
- *Housekeeping: At the next meeting, the Board will work on LB. Chairman White asked for an overview on what to do with LB if Mark is absent. Mark provided the following guidance: 1. Whipple: whether it should be an LB district and where it should go. 2. He references LB districts and asks them to look at the uses there and whether they are appropriate in those areas and what kinds of design standards are appropriate. 3. The last time we discussed LB, there was a difference of opinion as to Route 1. That was deferred until after the discussion with Kittery Foreside District. They said no. What happens there in terms of the dimensional and design standards and when you get over to the Old Post Road? It's sort of the C-1 and C-2 question. Can we put them all in one?*
- *Housekeeping: The next meeting is to be scheduled via e-mail.*

Break 8:31-8:36.

4. 8:30 PM PUBLIC COMMENT

None.

5. PRELIMINARY PLAN/SCHEDULING HEARING: Paul Bonnacci and Lucinda Schlaffer, 172 Pepperrell Road. Proposing to establish a 40 foot pedestrian Right-of-Way. Map 36, Lot 40. Zoned Suburban Residence.

Paul Bonnacci and Lucinda Schlaffer are back with a boundary survey that reflects what they had on their preliminary sketch plan. They have waivers as well. They are happy to go through it. There are no real changes from the sketch plan to the survey.

Chairman White says that what was previously submitted has now been better defined.

Bonnacci says it was nice because the property lines that were not well-defined before now are. He and his wife have a continuing interest to get this on some kind of conservation easement.

The Board has heard a sufficient amount at present.

Planner Noel says that the application is substantially complete.

Chairman White asks for a motion unless anyone has any other comments.

Scott does not think that waivers apply.

Schlaffer submitted it because they were requested.

Chairman White says that we could note for the record that waivers were requested but are not necessary.

Ron agrees that is our opinion.

The applicants are not adding gravel for a parking lot.

A. Motion

Scott moves, having reviewed the proposed development, that the Right Of Way plan for Paul Bonnacci and Lucinda Schlaffer, 172 Pepperrell Road, Kittery, ME, tax map 36, lot 40, establishing 40 foot ROW in a suburban residence zone, be found to be substantially complete and ready to be submitted for public hearing to be scheduled by the Town Planner.

Jerry seconds.

All in favor.

Chairman White tells Mr. Bonnacci to schedule this for hearing with Planner Noel. He does not anticipate this being a long agenda item.

Planner Noel thinks that was a record review.

6. SKETCH PLAN: Darren Lapierre, Badgers Island Marina: proposing a new structure on existing dock. Map 1, Lot 30. Zoned Badgers Island.

Chairman White introduces the next agenda item.

Janet Gagner steps down for this item, as she is an abutter.

Darren hands out the correct deed. He gave the wrong deed before.

Darren is trying to recap over the whole last year of 2004. Nothing has really changed. On Exhibit A, there is a typo in categories A, B, and C. B is the permanent supply locker, not an ice maker. He is crossing out item C. There is a salt water pump in B. Rather than starting from scratch again, he gave a letter, a quick breakdown of what he is asking for again - a seasonal awning, lobster tank, ice machine, and secured entrance to Badger's Island Marina. He received the approval of the KPA in June 2004. He is going along with their guidelines of taking down portions of the fence and the aluminum structure, and is to stop selling lobsters off season. He gave a color photo of the center of the marina. If you take that photo with the blueprint, you can see how it affects everybody else, if it does at all. Other than just going over everything again, he does not know where else to go, so go ahead with your questions.

Chairman White throws it open to the Board.

Darren says the supply locker measures 48"x20"x60". The ice machine is 64" high, 4" taller than the supply locker.

Megan says that's 5 feet tall. Is it similar to what is at the gas station or Christies?

Darren is not sure. He hasn't decided whether to get one that makes ice or one that you just stock with ice. Both have refrigeration.

Ron begins with page 317 of code, paragraph 3.f. it says no existing structures built on a pier.... Oops. Wrong one. It's 3.e. that requires direct access to the water as an operational necessity. What is the operational necessity? No new structure shall be built unless the structure requires direct access to the water as an operational necessity. What is it about this structure that makes it that?

Darren says this gives shelter to the customers. People drop off goods and have no place to get

out of the bad weather. There is no place for any of our customers to get out of the bad weather. That was obvious on the site walk we had 3-4 months back. The sales of live lobsters to our boaters. He is trying to enhance and add amenity to the marina. The lobster tank needs to be covered along with supplies to keep it in function. If you look at Exhibit A on page 1, the whole left side of the ell cannot accommodate it. This security gate will play a big role. He has had 3 thefts at the marina since the condo came into play. He wants to give some security to those paying top dollar for these boatslips.

Ron asks Scott for guidance.

Scott says that the lobster tank is functionally water dependent. Scott thinks he has no other place to put the ice maker.

Megan says he can put it in the parking lot.

Jerry says that if he has a security gate anyway....

Scott says that he wants it on the secure side of the gate.

Scott says that you need something to allow you to put your stuff under shelter. If you come in, or are leaving groceries, and then parking, you need it. He sees it as functionally water dependent and thinks KPA looked at it that way.

Ron didn't think they looked at land use.

Scott says that KPA does look at whether something is water dependent.

Ron says that it is less than 20' high, so there is no issue with g.

Darren says that the ice machine will be removed, but the storage locker will not. The tank will not be that high - 24 inches.

Scott says the idea is to block as little of the view as possible. That's why the KPA wanted the walls down.

Ron asks if there was an issue with the abutter and whether that has been resolved.

Scott says that he does not believe it was, as there is a letter from an attorney.

Planner Noel says that it is a condo issue that they need to deal with themselves.

Chairman White does not think that we need to jump into that. We can look at the intended use, but in terms of stepping between.... If we deem it in conformity, that's where we get off. Tonight is a sketch plan, so I guess what we want to do is give any feedback, and ask if any members of the public wish to comment, but it is not a public hearing, so please keep your comments brief. Is there anyone here who would like to speak?

Danielle West-Chuhta represents some condo owners at Badger's Island. She wants to continue to express their objection to the proposal because of noise possibilities, parking issues, the scope and size of the project proposed will create a view obstruction and is beyond the dimensions needed for this structure. They would like to be notified of any public hearing regarding this issue.

Chairman White confirms with Planner Noel that as abutters, they would receive notice.

Chairman White asks if there are any waiver issues. He asks if there are any the applicant needs to have.

Planner Noel does not think so. He would like to call the Board's attention to paragraph 3 of the memo he put together. It is his interpretation of the code and if you look at the approval from the Port Authority, he would suggest that KPA has already granted the use that Lapierre is requiring and that the Board is responsible for approving the proposed structures on the dock after

determining whether the proposed structures are functionally water dependent.

Ron says that this is very different from the approach taken by KPA last night. The KPA Chairman consistently maintains that KPA does not look at proposed use.

Planner Noel draws his attention to page 312 of the ordinance, number 17, re: piers, docks, uses, and structures built over and above, and dock and port facilities.

Ron reads the code the way Planner Noel does, but the KPA Chairman has been explicit that KPA does not review use and any other aspect of the Land Use and Development Code. Ron is concerned that no one will be reviewing the use.

Chairman White would like the KPA excerpt that approved this use.

Megan shows him the letter.

Scott says the KPA did not review whether it meets the Land Use and Development Code. The KPA looks at its rules and regulations. Then the applicant comes to the Planning Board to see if it meets the components of the Land Use and Development Code.

- *Housekeeping: Chairman White says we need to sort out our thinking on this before we get to public hearing. We have to follow the ordinance, even if we feel that other bodies have not always followed the ordinance properly. We just have to do what we're supposed to do.*

Ron thinks we have to make sure this conforms to the code. He was pointing out that the Planner said that the KPA made a determination as to use, but Ron and Scott know that is not the case.

Chairman White does not think that we can go behind this letter and review the decisions of the KPA.

Ron says that if the subject does not conform, then we are required not to allow it, even if the KPA may have done so. He feels that we are obligated to make that determination ourselves.

Scott agrees with respect to the Land Use Code.

Megan says that it says that it may be brought back to the Planning Board re: change of use.

Chairman White asks whether we need to give Lapierre any feedback.

Ron thinks that it meets the code.

Chairman White knows we discussed at site walk whether it is too high.

Jerry remembers that you cannot have the entrance too low, but you do not want it too high either. The ice machine and supply locker are about 5 feet tall, and the roof is pitched about as low as you can get.

Darren says that the heights came from existing entryways at local marinas - 12'5". Has not changed anything from 11 months ago.

Megan thinks that it is too tall for where he is. Given that the KPA has given the go ahead, they have determined it is a water dependent use. She thinks that 5' with more on top of it, with the security fence, it seems like a height of 12' really is going to interfere with people on shore.

Chairman White says that the side wall is 7'10" and he'd be happy to lower it to 7'. He does not know if that would make doorway too low to go through.

Darren says that the reason for the 48" doors and having it tall is that you are bringing gear down to your boat, and the gear can go over your head. Things can go above your head by 2' easy. This entire height is lower than Kittery Landing. If you go measure it apples for apples, in consulting with Back Channel Canvas, he feels that is the lowest he can do and still give it character, as opposed to a flat roof like some of the others.

Chairman White says at this point, we are just giving feedback. There are competing arguments to keep it as is or change it.

Ron thinks that under the code, the Board should be looking at it as to whether it is consistent with others in the area. This is about twice the size of the other one. We need to look carefully at whether this structure is different enough from that structure to be out of character.

Scott says that other structure has a totally different use.

Megan says it didn't used to be.

Chairman White says that it sounds like Darren's plan is pretty much the same and the concerns are pretty much the same.

- *Housekeeping: Darren will talk to Planner Noel re: preliminary scheduling.*

Megan has one additional concern re: noise levels on the refrigeration units. The back will be facing toward shore.

- *Housekeeping: Chairman White asks for a cut sheet on the decibels for the machinery he will be using.*

Darren says that the ice machine will be compressor motors, so you don't hear humming.

Megan says the information will help the application.

Darren thanks the Board.

7. PUBLIC HEARING (continued): Attar Engineering, for Meetinghouse Village/Vernon Continuing Care Homes, Inc., Phase II, major subdivision, Map 8, Lot 41, Zoned Urban Residence

Janet returns.

Ken Wood from Attar Engineering introduces himself. Paul Andrews is here with him. They have given the revised plans that were requested at the Planning Board meeting last month. They worked with Jim to provide the items that the Board requested. The requested landscaping is shown around the units on the grading plan. They have given a new plan which has an enlarged entrance plan that shows the right hand turn lane that they agreed to construct pursuant to Rossiter's comments. They also provided a municipal impact statement. Meeting House Village pays about \$17,000 as a service fee. With phase 2, the fees would increase to about \$27,000. The sewer connection would result in a sewer fee of about \$180,000. There are no impacts on the schools. David O'Brien figured that the Kittery Fire Department pays about 2-3 visits per year, so it costs between \$600-\$900 per year for firefighting. There are less than 30 calls per year to police and these are for the ambulance and unintended death. They have provided buffers. They talked to Earledean Wells. They have given the zoning summary in the cover letter. He hopes we are at the area of workshop and approval. They have been coming before this Board for a little more than a year. The first meeting was January 8, 2004. He has enjoyed meeting with you for a year. There have been a lot of articles in the paper again re: the nonprofit status of Meetinghouse Village. They have been doing their work for 10 years. Every contract they have is based on an hourly rate and they give them a 10% discount that they normally give to municipalities. That is meant to help them keep their rentals affordable. At the last meeting, he

highlighted the concessions that they had made. The peer review did not show they were doing anything contrary. They really are not putting anything in front of you that does not agree with past site plans and approvals for Meetinghouse Village in its past phases.

Chairman White asks if there is any public comment to be made on this.

Russell Plant, 1 Lyndon Way, has been before you many times before. He did not want to address the moderately priced housing.

Chairman White would like to stick to new things.

Plant says that there are a lot of open issues and a lot of opposition from hundreds of residents. He would like to readdress a couple items. He does not understand how the number of trips per day has been so drastically reduced. The Planning Board said that a second access road was required for phase 2. There is no emergency access. If there is ever a fire, it could be a real problem. People have requested files and have not been able to find documents that should have been on file. The tax assessor has not performed a review of the exemption status to make sure they still qualify. The property tax exemption is questionable. He is still very concerned about salt and sand being dumped in wetland areas. He thought that Village Inn would have been moved further away from the steep bank. The road still is being extended onto Page Street and the bridge.

Chairman White says that there is a line on the map. All that we are looking at is what is in the phase 2 line.

Plante says that we need to look at the issue of a second access road. He does not think that the Planning Board should make a decision until ZBA looks again, because the zoning approval has expired. He is not sure that ZBA will re-approve this. He thinks the project is damaging to the town's infrastructure.

Nicholas Pesarik has been up here previously. He wants to talk about the wetlands and his concerns. He knows that we are only looking at phase 2, but the other phases have to be considered. He was looking for a lot of those permits and how they came up with their studies and has been looking for the flagging of the wetlands and they have not been flagged out. His brother-in-law went with him and knows about the wetlands. His brother-in-law sits on a board.

Chairman White says that we have to consider only what is before us tonight. We asked to have their potential future expansion depicted, but it is not before us tonight.

Pesarik says that he will have to just live with that. The delineation of the wetlands has not been done. They said the stakes were pulled out, but they have not been done. There is no information in the file re: the vernal pools. He came to the town office and looked at the file and thought the file was incomplete. The vernal pools should seriously be looked at. He does not agree and does not think that we should approve this project.

Chairman White says the composition of the board has changed over the course of this project. We have had 3 site walks and some of us have done self-guided site walks. There was a time when things were marked out and we did go there.

Pesarik has never seen flagging there and he lives right by there.

Beverly Gregory, 11 Dunly Avenue, thinks that the Board is being penny wise and pound foolish. The BRAC is coming up and we are going to be without a shipyard. You are going to allow all these tax free exempt corporations and we will have to pay for it and we will not even have our jobs.

Chairman White attempts to speak.

Beverly Gregory does not want to hear what he has to say.

Chairman White feels that the applicant has generally responded to what the Board has asked. Specific points were just raised as to traffic counts, tax exemptions, and wetlands staking.

Planner Noel says that assessor and town attorney are meeting on the tax issue on the 18th. They are reviewing it.

Ron says that leaves us with traffic counts and wetlands staking.

Chairman White says that his understanding of the traffic count was that it was a borderline issue and that the applicant understood it would have to be addressed in the future.

Scott references the traffic engineering report, 3 pages from the back. There is a table that shows daily trips at 2.5 and he wants to know if that is the amount being used.

Ken thinks it is a little more than 2 per day and that Rossiter is in agreement with those figures. Rossiter thought that Pepperrell Green should be added to the count, but did not think that a second access road was needed. If they have to get into Pepperrell Green, then they will get in from State Road if Village Green is blocked.

Scott questions whether it provides a secondary access. He wants a definition for congregate.

Ken says that elderly residents, most over 55, tend to travel less, and less than normal condo units.

Scott questions how low they are. He would love to see a definition in writing. He thinks the traffic count is awfully low. People live longer and are more active. Are there functions where a good portion of the people will be going to that event? He is trying to figure out if he agrees that this project is closest to what the applicant is calling it.

Ken asks if he has the letter of 2/1 from Eaton to him.

Megan has it and provides it to Scott.

Ken says that as the tables indicate, in elderly housing, there are 7.9% of the daily trips, which is the same category as congregate. When Rick went through that with him, he was in agreement.

Planner Noel says that is spelled out in Rossiter's letter to the Board which indicates 2.15 trips per unit per day, but he thinks that perhaps Pepperrell Green should be included.

Ron asks if Pepperrell Green were included, would that move it past the threshold?

Planner Noel says that it would increase it to over 200 trips per day.

Chairman White says that Pepperrell Green would not use this access route.

Ron says that we do not have a letter from Rossiter that agrees with these numbers in total.

Scott says Rossiter thinks Pepperrell Green should be added. Normally, you would not have a secondary access within 1,000 feet.

Chairman White says that Pepperrell Green by itself would not need a secondary access. Looking at it from a safety point of view, they did not need it.

Scott says that if we look at the length of the road, we may need to do a waiver.

Megan does not think so. She estimated from the edge of the road and if their scale is right, it's about 400 feet, where 1 foot equals 20 inches and it's about 20 inches into the first building.

Doug says that scaling off of the site plan, he sees 1,200 feet.

Ken says that it is 1,000 feet to Village Green, and about 1,300 feet to the last building.

Megan asks if his scale on the entrance plan is correct.

Scott asks if the road is a minor street at this point.

Ken says it is about 98 trips per day total. 68 units times 2.17. Wait. It is about 147.6.

Scott asks if that 2.15 trips per day figures in employees.

Ken says yes.

Ron says and guests? Ken nods affirmatively.

Scott says that at 1,300 feet, we would need to do a road length waiver.

Chairman White says the applicant would need to add that to his package.

Ron says that we need to act on the waiver first.

Scott says that he still has trouble with the parking.

Chairman White was satisfied with the integration of the parking in the next stage.

Scott asks what happens if it stops at this. It is a stone dust sidewalk. We would not approve this type of development without a sidewalk, particularly if there would be more development within the woodland corridor. We are beyond phase one at this point. We still have a fairly good sized project that has this parking that Scott thinks could be put somewhere else. He understands that it could be an inconvenience to some of those in those units, but he thinks that having no parking under the Village Inn is also an inconvenience. He can see where they are going with it and that they do not want to make the change now, but what if there never is a phase 3 and phase 4.

Chairman White thinks the rationale was the amount of traffic was acceptable until we increase the traffic at the next phase.

Scott would like a more permanent sidewalk area.

Chairman White says that we could say that if additional phases are not constructed within 5 years....

Scott says we could have a performance bond on it.

Chairman White is inclined to accept it as presented.

Ron thinks Scott has a point. There is a lot in flux, not the least of which is the code. We need to tie it off to some degree.

Ken says that the peer review's thoughts were that perpendicular parking worked so long as they were dead end roads and the traffic counts were low. The reason that the permanent sidewalks were proposed in phase 3 is that they agreed with the peer reviewer and the Board that when traffic counts increased, they would do it.

Chairman White asks if the applicant could agree to harden the sidewalks if phase 3 does not materialize.

Ken reads from the prior minutes where Scott is concerned about sidewalks. He thought that what was discussed was what would take place.

Scott does not see the stone dust sidewalk as permanent.

Ken says all sidewalks will go in now. He will just put in a stone dust sidewalk at the parking area.

Jerry says that part of the question is how long to go with a stone dust sidewalk.

Chairman White asks to add a condition that the stone dust sidewalk be maintained and then if future phases are not built within 5 years, all stone dust sidewalks be paved.

Ron says that the last item is wetlands delineation.

Ken did that. Everyone has walked it. The DEP found flagging delineation acceptable and issued the permit. There are 2 wetland reports on the north campus, both done by Planner Noel.

Jerry Solich moves to extend the meeting until 10:20.

Ron Ledgett seconds.

Chairman White suggests 10:30 with no further extensions.

Jerry Solich amends.

Ron Ledgett seconds.

All in favor.

Scott would like a way to tie this into Route 1. He read somewhere that they will be or are working on Route 1.

Planner Noel thinks that could be in the design process.

Scott would like it tied in that if it happens, the developer will work with the state and the town to bear some of those costs. Scott does not want to see the town having to bear the expense of putting in a left hand turn lane here. The issue is that the road is getting done and they wanted to get it in with that. If we say that it is happening in phase 4, what if the road gets done in phase 4?

Janet asks if the concern is that it won't get done because of cost.

Chairman White says to think of other projects. Shepherd's Cove did the road work up front. There is also Woodlands Commons.

Megan says they set aside some money.

Scott says that there was work done there.

Megan remembers that if a light was going to go in, they were going to contribute to it.

Chairman White asks if Scott is saying that if a road is done, the applicant can't work on the road for 5 years.

Janet says it is the state.

Planner Noel says it is town policy.

Megan says that Shepherd's Cove had 108 units and they were required at 100 units to put in an acceleration, deceleration lane.

Ken says that they will be doing that in phase 3. This phase is the right turn lane. The center left hand turn lane on Route 1 was phase 4. Phase 5 would be the signalized light with a sensor.

Scott says that it is potentially necessary before you get to stage 3.

Chairman White says that the developer will want to coordinate with the state and town on this.

Ken agrees. He thinks that the state funds the majority of the reconstruction of the road.

Scott asks re: Route 236.

Ken says that the town did the light at Stevenson for school buses. It was not required by the state.

Scott says in the December 7 memo to the Board, it states that the town has total responsibility for maintenance and safety of this road.

Ken still believes it is the state and he can clear that with Rick. He thinks that the state does 75% and the town does 25%. If the state is reconstructing a state road, that is the time to talk to them about the improvements. On another project, the state picked up the cost of some of the improvements.

Janet says the bigger question for her is that we are coming up with requirements in future phases that other boards will need to know. How do we make sure they know of them and make it so that other boards know we have looked at it?

Chairman White says we have the minutes and what Rossiter has provided to us. If future phases are approved and built, then road improvements will be made in accordance with the plan. We

can put that on the plan.

Scott says that this is really not a phase project. By our definition of a phase project, we would have to approve or deny the whole thing. Because this is not a true phase project, this would not be an amendment when it came forward again.

Ken thinks that it probably still would be.

Janet says there is a lot on the plan that is outside of what we are reviewing.

Scott asks if for clarity we should re-name what the applicant calls phases as something different.

Chairman White would like to know if a note on the plan would be enough.

Janet thinks that maybe the applicant could do another draft.

Chairman White thinks it is mostly a message to future boards and it should contain that reference on the plan.

Ron thinks the plan is the most reliable place to have it. Any other piece of paper is bound to be lost.

Janet says they are going back to ZBA for phase 2. They need to know that we have reviewed this. It is confusing. Look how long we have deliberated.

Chairman White believes that some of the buffers have been recorded.

Ken says the buffers have been recorded.

Scott says that this falls under the cluster development ordinance.

Ken says the buffers are required by the DEP. They are shown on the plan. They have provided the recorded declaration of those buffers. The conservation easement came up at the last meeting. He puts that forward for consideration tonight.

Scott sees the references to the cluster development section.

Megan says we have been talking cluster the whole time.

Ken does not know that we have been talking cluster.

Scott reads from the ordinance.

Megan says that it is cluster.

Scott wonders if we need to designate areas of open space, which is one of the things that we have to do in a cluster development. He thinks we may need that shown on the plan.

Megan says that is one reason that she was encouraging the applicant to look at somewhere close to 50 feet between the Village Inn and the entrance where you have a little U-shaped traffic pattern that goes off the street and then back on. He could snug the Village Inn closer to the street and then he would have more room to do the storm water treatment that he feels he has to have. Rather than having this big island and all that asphalt, she would do that. It wouldn't be as elaborate as what he has. It would decrease the paved surface area and pull it up a little away from the required buffer and allow the applicant to offer a potential open space overlook for the residents. The existing six plex overlooks the dumpster for the Village Inn, which she does not think is fair. Right now they have a beautiful view. They will be looking at asphalt and a dumpster. What he has with the Village Inn, unless she is wrong, there's a dumpster at the end.

Ken says it's screened and 50 feet away.

Megan asks if he has ever been inside a building when a dumpster is being emptied, even 50 feet away. It's loud. If he really has to have it on that side of the building, she would put it elsewhere.

Chairman White does not see it as a redesign issue at this point.

Scott asks for his input on the cluster issue.

Chairman White asks if the question is whether this falls under cluster and whether they need to meet cluster requirements.

Scott asks and Ken agrees that he used 8 units per net residential acre.

Jerry asks where Scott started.

Megan says page 238, d.4.

Scott says Megan alluded to this at the last meeting or the meeting before. Whenever we see one of these, they are always cluster. The cluster ordinance is on page 338-5.

Jerry says that it says that the standards may be modified.

Chairman White says that Scott is talking density.

Scott says that he is using elderly density and the way Scott reads it, elderly density is cluster.

Ron says that is the way he reads it too.

Scott says that both 3 and 4 refer to cluster.

Megan says that the reason for the ordinance is to allow flexibility for design.

Scott says that it makes sense for the elderly because they will want things closer.

Ron reads it as 20,000 per unit unless you are in paragraphs 3 or 4 on page 238.

Scott is not sure why we didn't figure this out before.

Chairman White, Ron and Megan say that we did talk about this before, but we got away from it.

Chairman White says that we need to determine whether this works as a cluster development, since that is what it is.

Chairman White thinks that we are to only look at phase 2 at this time.

Ron says that if you look at it that way, the open space portion has to be within that boundary.

Chairman White references the buffers.

Megan says no because that is their storm water treatment.

Ron does not think those areas can be counted twice.

Megan thinks the dotted lines she has on one sheet are not the same as what she has on another.

Ken says that the actual limits of disturbance, talked about at the last meeting, are shown on the grading plan. If you look on the grading plan, there's a building in here. The limit for disturbance actually contains a four plex in it and it is a phase 3 four plex. That does not mean that you are approving that four plex. It is a phase 3 building. However, the ground there will be disturbed because they will be storing stuff there during phase 2. The limits of disturbance should be inside the lines shown on the grading plans.

Ken would be happy to provide the open space calculations.

Chairman White would like phase 2 open space and build out.

Ken will do so.

Chairman White says that the applicant needs a waiver application for road length. The application needs an added note that sidewalks will be added within 5 years if there are no further phases. Future improvements to State Road will be done in accordance with Rossiter's letter of December 7. The cluster housing issues need to be addressed. There is a conservation easement issue that is ongoing at this point.

Doug says that we are about to run out of time. There is some confusion or disbelief about the trip ends, where the normal amount is 10. Could they do a traffic count in an existing subdivision and tell us what the trips are per day?

Scott thought about that. He did not have time to do the research.

Chairman White is not ready to require a traffic count.

Scott says it is too easy to manipulate. Scott would like more information.

Ron thinks that it is based on a set of standards.

Scott's concern is that because of the two issues, it may be a little different.

Scott Mangiafico moves to extend the meeting until 10:45.

Jerry Solich seconds.

All in favor.

Scott Mangiafico moves to continue the public hearing for Meeting House Village to the next available meeting date to be scheduled with the Town Planner.

Chairman White asks that we not put this off and that we get it on as soon as possible.

Jerry Solich seconds.

All in favor.

Planner Noel will have to make some phone calls.

Chairman White thinks that with the extent of time this project has been before us, the composition of the board has changed.

Scott asks if Ken is familiar with the cluster provision.

Ken confirms it is in the ordinance.

Megan has one more concern with the parking and the current expansion. She has gotten really concerned that they don't have any handicapped parking in front of and near these six plexes. It is like their parking is totally away so all they have is the parking out front. A couple meetings ago, she stated that she really did not want that to happen. Although there is handicapped parking in the lots, she would like to see that closer to the units. The wishes were really good for getting the parking closer with the first plan. She asks if the applicant could find a way for each unit to get a spot in front of the unit, not backing out into the street.

Scott says it can be a single handicapped spot perpendicular to the road. What he doesn't like is 6-10 parking spots in a row. He thinks that parallel parking causes other problems.

Ron asks about the waiver re: road length.

Chairman White says the waiver will be considered first.

Ken thanks the Board.

8. OLD/NEW BUSINESS

Jerry asks about what they are doing at the restaurant formerly known as the Quarterdeck. Is it a rip down and rebuild?

Doug heard they are removing 80%.

Scott says that otherwise they could not rebuild because it's nonconforming.

Planner Noel says that they have been to ZBA and ZBA has been on it and Planner Noel has paid a visit to McEachern on it. They pretty well wittingly or otherwise wrapped up a neat little package. Initially, they asked for the allowable 30% expansion. That needs to be approved by ZBA and ZBA approved the expansion. The architect told the ZBA that they met with the state fire marshall and he said that it was a rebuild. The applicants do intend to move it back

minimally from the wetlands and from Spruce Creek. The only unsettling thing he saw in the findings was that the ZBA did not see fit to address the parking issue. They are not planning to have any more public accessible area or increase in seating, so the ZBA found no additional parking was needed. The use is to be exactly the same. The applicant did agree to tear up the pavement and put down crushed shells or heated keystones, so it is a less impervious surface. Ron says that they are also planning to do rain gardens and may be changing the drainage. Planner Noel says they are also working on eliminating one of the entrances or egresses from the property.

Ron says there is a discussion going on. Most of the waterfront is owned by another. The guy was talking about a lease but not a sale of that property. If you look at the property line, the adjacent lot has a crescent that comes around the Quarterdeck property.

9. PLANNER'S TIME

High Point Estates has agreed to put in a granite curb with concrete sidewalks.

He has a set of mylars from CMP. He got a complaint from Ridgewood Estates that they mucked up one of their wetlands. Planner Noel will be in touch with Mark Goodwin who did the work and filed the final report. He has been in touch with Doug Burdick. That may be a violation. It is a different issue from the mylars.

As we are moving along on the ordinance, a lady is in the wings waiting to give the Board a presentation on impervious surfaces. He had her tentatively for tonight and has her tentatively for the 27th. It would be best to have her visit with the Board when we get closer to the rural conservation issue. He needs to tell her when it's a good time for her to come and provide this presentation.

Chairman White asks whether the second meeting in February is good.

Ron says Chairman White's guess is as good as Ron's.

Chairman White says that the next thing will be the LB.

Planner Noel says that she had also suggested that we entertain having a joint meeting with York and Eliot. Planner Noel did not know if that was a great idea because it could detract from time needed to work on the ordinance.

Chairman White thinks that it might be good to do two - one individual and one regional, and suggest that she plan a regional meeting later in the spring when we may have more time.

Scott says that Briars was approved by KPA yesterday 3-1. It will need to go to us and to ZBA.

Ron says they have a lot of hurdles before they get here. They have not complied with the DEP order. They are required to change the site plan and were supposed to put drainage easements across the properties already sold.

10. ADJOURNMENT

Meeting ends at 10:48.